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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,151	06/13/2001	Joseph M. Cannon	51-49-7	7432

7590 03/31/2003

Docket Administrator Agere Systems Inc.
P.O. Box 614
Berkeley Heights, NJ 07922-0614

EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 03/31/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/880,151

Applicant(s)

Cannon et al.

Examiner
Rafael Perez-Gutierrez

Art Unit
2683



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 11, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-7, 23, 24, and 29-45 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 5-7 is/are allowed.
- 6) ☒ Claim(s) 29, 30, and 32 is/are rejected.
- 7) ☒ Claim(s) 23, 24, 31, and 33-45 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 11, 2003 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Feb 11, 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on February 11, 2003. **Claims 1, 5-7, 23, 24, and 29-45** are now pending in the present application. **This action is made NON-FINAL.**

Drawings

2. The proposed drawing correction filed on February 11, 2003 have been approved by the Examiner.

3. The formal drawings received on February 11, 2003 have been approved by the Draftsman.

Terminal Disclaimer

4. The terminal disclaimer filed on February 11, 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of **U.S. Patent # 6,269,257 B1** has been reviewed and is accepted. The terminal disclaimer has been recorded.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 29, 30, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by **Moon et al. (U.S. Patent # 6,418,309 B1)**, newly cited.

Consider **claims 29, 30, and 32**, Moon et al. clearly disclose a method of affecting an alerting signal in a telephone handset 10, comprising the steps of:

sensing a condition related to a location of the wireless handset 10 (e.g., cordless telephone) (i.e., handset 10 located in a meeting) (abstract, column 2 lines 34-60, and column 4 line 55 - column 5 line 63); and

affecting a characteristic of the alerting signal based on the sensed condition (column 5 line 64 - column 7 line 7).

Double Patenting

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6. **Claims 38 and 42** are objected to under 37 CFR 1.75 as being a substantial duplicate of **claims 23 and 24 (each of claims 23, 24, 38, and 42 depends on claim 29)**. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

7. **Claims 1 and 5-7** are allowed.

8. **Claims 23, 24, 31, and 33-45** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including any correction(s) to any objection(s) made above as well as all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1 and 29 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

10. Any response to this Office Action should be **faxed to (703) 872-9314 or mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to

Crystal Park II
2021 Crystal Drive
Arlington, VA 22202
Sixth Floor (Receptionist)

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, William G. Trost IV can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.

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A handwritten signature in black ink, appearing to read 'Rafael Perez-Gutierrez', with a stylized flourish at the end.

Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

March 24, 2003